

REMARKS

This is in response to the Office Action dated February 25, 2004. Claim 59 has been canceled without prejudice. Thus, claims 1-3, 5-18, 36-39, 41-46 and 55-58 are now pending.

The only claim change herein is the cancellation of claim 59. Thus, it is clear that this Amendment After Final should be entered as no new issues have been presented.

While applicant does not agree with the rejection of claim 59 and believes it to be incorrect, the claim has been canceled without prejudice to file a continuation or divisional application including the same in order to expedite prosecution of this case and to place this case in clear condition for allowance.

Section 112 Rejection

Claims 1 and 36 stand rejected under 35 U.S.C. Section 112, first paragraph. The Office Action contends that the specification does not support heat treating a substrate with a solar coating thereon. This Section 112 rejection is respectfully traversed for at least the following reasons.

For purposes of example only, and without limitation, the instant specification describes an example non-limiting technique for making a product from paragraphs 0029 to 0034. This example non-limiting embodiment explains that a solar control coating 9 may be provided on one side of the substrate 1 (paragraph 0030). The same paragraph goes on to state that "one or more layer(s) 11 of or including DLC may *then* be deposited" (paragraph 0030). Thus, it is clear that the DLC is provided on the substrate *after*

the solar control coating has been provided thereon in this example non-limiting embodiment described in the specification. The substrate is then heat treated (paragraph 0033). Thus, according to this example embodiment in the specification, the solar control coating must necessarily be on the substrate at the time of heat treatment. This evidences clear support for claim language which requires heat treatment when the solar coating is supported by the substrate, though the claims are not limited to this example embodiment provided in the specification.

As yet another example, paragraph 0002 describes heat treating with a low-E coating supported by the substrate.

For at least the foregoing reasons, it is respectfully requested that all Section 112 rejections be withdrawn. The specification clearly provides support for the pending claims.

All Section 103 Rejections Must Be Withdrawn. 35 U.S.C. § 103(c)

All current Section 103 rejections must be withdrawn pursuant to 35 U.S.C. Section 103(c). In particular, both cited Thomsen references are commonly owned along with the instant application, and were commonly owned at the time of the invention. Thus, the cited Thomsen references cannot be used in a Section 103 rejection.

Conclusion

For at least the foregoing reasons, it is respectfully requested that all rejections be withdrawn. All claims are in condition for allowance. If any minor matter remains to be resolved, the Examiner is invited to telephone the undersigned with regard to the same.

VEERASAMY

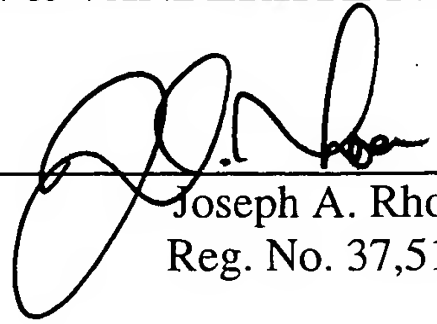
Appl. No. 10/091,589

May 25, 2004

Respectfully submitted,

NIXON & VANDERHYE P.C.

By: _____

A handwritten signature in black ink, appearing to read 'J. Rhoa', is written over a horizontal line.

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